

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MAY - 4 2016

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY  RECEIVED

USA

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vs.

Case Number: SA:16-CR-00332(1)-XR

(1) Francisco Rubio-Cuellar
Defendant

ORDER SETTING ARRAIGNMENT

IT IS HEREBY ORDERED that the above entitled and numbered case is set for **DISTRICT COURT ARRAIGNMENT, in Courtroom C on the 4th Floor in the John H. Wood, Jr. United States Courthouse, 655 East Cesar E. Chavez Boulevard, San Antonio, TX, on Monday, May 16, 2016 at 1:30 PM.**

IT IS FURTHER ORDERED that the Clerk of Court shall send a copy of this order to the defendant, counsel for defendant, the U.S. Attorney, U.S. Pretrial Services, and the U.S. Probation Office. Further, counsel for the defendant shall notify the defendant of this setting.

A defendant entering a plea of not guilty who wishes to waive personal appearance at the arraignment, is excused from appearing, as is the attorney, if the enclosed waiver is executed and signed by both the defendant and the attorney of record, and filed with the Clerk **prior to 5:00 p.m. on the day before the scheduled date of arraignment. If the waiver form is not submitted by that time, the defendant and defendant's attorney must appear for the arraignment as scheduled.**

NEW PROCEDURES EFFECTIVE AUGUST 1st, 2013:

If the defendant is on bond, defense counsel must advise defendant that, unless excused by the Court, he/she must be present in Courtroom C on the 4th Floor in the John H. Wood, Jr. United States Courthouse, 655 East Cesar E. Chavez Boulevard, San Antonio, TX, 78206 at the place and time set for arraignment.

If the defendant is incarcerated at the GEO Facility at 218 Laredo St. San Antonio, TX, 78207, then the arraignment will be held by video teleconference, unless the defendant does not consent or the Court specifically orders otherwise. See Fed. R. Crim. P. 10(c). A form regarding defendant's consent is enclosed. Defendant's attorney is required to appear at the GEO Facility with the defendant for any arraignment held by video teleconference.

IT IS SO ORDERED this 4th day of May, 2016.


HENRY J. BEMPORAD
U.S. MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

USA

vs.

(1) Francisco Rubio-Cuellar

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§
§

NO: SA:16-CR-00332(1)-XR

FORM NOTICE TO:

- (A) **WAIVE PERSONAL APPEARANCE AT ARRAIGNMENT AND ENTER PLEA OF NOT GUILTY, OR ALTERNATIVELY PROVIDE STATEMENT REGARDING CONSENT TO ARRAIGNMENT BY VIDEO TELECONFERENCE;**
- (B) **WAIVE MINIMUM TIME TO TRIAL; AND**
- (C) **CONSENT TO DISPOSITION OF MISDEMEANOR OFFENSE BY A UNITED STATES MAGISTRATE JUDGE**

**WAIVER OF PERSONAL APPEARANCE AT ARRAIGNMENT AND ENTRY
OF PLEA OF NOT GUILTY**

NOW COMES Defendant in the above-referenced case who, along with his/her undersigned attorney, hereby acknowledges the following:

- 1) Defendant has received a copy of the charging document in this case.
- 2) Defendant has read the charging document or had it read to him/her.
- 3) Defendant understands he/she has the right to appear personally with his/her attorney before a Judge for Arraignment in open Court on this accusation. Defendant further understands that, absent the present waiver, he/she will be so arraigned in open Court.

Defendant, having conferred with his/her attorney in this regard, hereby waives personal appearance with his/her attorney at the arraignment of this case and the reading of the charging document and, by this instrument, tenders his/her plea of "not guilty". The defendant understands that entry by the Court of said plea for defendant will conclude the arraignment in this case for all purposes. Defendant request the Court accept his/her waiver of appearance and enter a plea of "not guilty."

Date

Defendant

Name of Attorney for Defendant (Print)

Date

Signature of Attorney for Defendant

THIS WAIVER FORM MUST BE FILED IN THE CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON THE DAY BEFORE THE SCHEDULED DATE OF ARRAIGNMENT. IF A WAIVER FORM IS NOT SUBMITTED BY THAT TIME, THE DEFENDANT AND DEFENDANT'S ATTORNEY MUST APPEAR FOR THE ARRAIGNMENT AS SCHEDULED.

**STATEMENT REGARDING CONSENT TO ARRAIGNMENT BY
VIDEO TELECONFERENCE**

The U.S. Magistrate Judge may conduct arraignment by video teleconference if the defendant consents. *See* FED. R. CRIM. P. 10(c).

PLEASE INDICATE YOUR CONSENT OR NON-CONSENT TO AN ARRAIGNMENT BY VIDEO TELECONFERENCE BELOW:

_____ **I CONSENT TO ARRAIGNMENT BY VIDEO TELECONFERENCE**

_____ **I DO NOT CONSENT TO ARRAIGNMENT BY VIDEO TELECONFERENCE**

Date

Defendant

Name of Attorney for Defendant (Print)

Date

Signature of Attorney for Defendant

NO RESPONSE OR OMISSION OF THIS PAGE WILL BE INTERPRETED AS AN INDICATION THAT THE DEFENDANT INTENDS TO CONSENT TO THE MAGISTRATE JUDGE CONDUCTING THE ARRAIGNMENT BY VIDEO TELECONFERENCE.

WAIVER OF MINIMUM TIME TO TRIAL

Defendant understands that he/she has a right to a minimum period of time to trial so that trial shall not commence less than thirty (30) days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se. Defendant further understands that, absent the present waiver, he/she will not be brought to trial during this thirty (30)-day period.

Defendant, having conferred with his/her attorney in this regard, hereby **WAIVES** the requirement that trial shall not commence less than thirty (30) days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.

_____	_____
Date	Defendant
_____	_____
	Name of Attorney for Defendant (Print)
_____	_____
Date	Signature of Attorney for Defendant

NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A MISDEMEANOR

The U.S. Magistrate Judge may conduct proceedings in any and all Class A misdemeanor cases, including a jury or non-jury trial, if the defendant voluntarily consents thereto, and for Class B and C misdemeanors and infractions regardless of consent.

PLEASE INDICATE ONE OF THE FOLLOWING WITH A CHECK MARK:

_____ **I CONSENT TO MAGISTRATE JUDGE JURISDICTION.**

_____ **I DO NOT CONSENT TO MAGISTRATE JUDGE JURISDICTION.**

NO RESPONSE OR OMISSION OF THIS PAGE WILL BE INTERPRETED AS NOT CONSENTING TO MAGISTRATE JUDGE JURISDICTION AND CASE WILL BE ASSIGNED TO A U.S. DISTRICT JUDGE.

_____	_____
Date	Defendant
_____	_____
	Name of Attorney for Defendant (Print)
_____	_____
Date	Signature of Attorney for Defendant
